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**TOWN OF NEEDHAM  
MASSACHUSETTS  
BOARD OF APPEALS**

**SPECIAL PERMIT**

***Kenneth Raskin, owner  
15 Oakhurst Circle  
Map 42, Parcel 54***

*(Filed during the Municipal Relief Legislation, Chapter 53 of the Acts 2020)*

**April 30, 2020**

Kenneth Raskin, owner, made application to the Board of Appeals for a Special Permit under Sections 1.4.6, 7.5.2, and any other applicable Sections of the By-Law to permit the addition of a second story bedroom and bathroom within a legal non-conforming structure located at 15 Oakhurst Circle, Needham, MA in the Single Residential B District. A public hearing was held remotely on Zoom, Meeting ID Number 307290361, on Thursday, April 30, 2020 at 8:00 p.m.

***Documents of Record:***

- Application for Hearing, Clerk stamped April 3, 2020.
- Plot Plan by Field Resources, Inc., stamped by professional land surveyor Bradley Simonelli; dated, August 13, 2012.
- Existing Conditions Plan of Land prepared by Field Resources, Inc., stamped by professional land surveyor Bradley Simonelli; dated, February 24, 2020.
- Existing Site and Proposed Site Plan of Land prepared by Field Resources, Inc., stamped by professional land surveyor Bradley Simonelli; dated April 2, 2020.
- A set of plans and renderings prepared by Hosanna Design Build LLC dated March 26, 2020 and comprising of Sheets 2, 3, 4, 6, 13 & 14.
- ZBA Special Permit, May 29, 1984.
- ZBA Special Permit, January 18, 2007.
- Letter from David A. Roche, Building Commissioner, April 23, 2020.
- Letter from Lee Newman, Director of Planning and Community Development, April 22, 2020.
- Letter from Thomas A. Ryder, Assistant Town Engineer, April 22, 2020.
- Letter from Ali Akar, 23 Oakhurst Circle, received April 3, 2020.
- Letter from Paul and Rachel Grandstand, 15 Oakhurst Circle, March 29, 2020

***April 30, 2020***

The Board included Jon D. Schneider, Chair; Jonathan D. Tamkin, Vice-Chair; and Howard

S. Goldman, Member. Also participating was Kathy Lind Berardi, Associate Member and Peter Friedenberg, Associate Member. Mr. Schneider opened the hearing at 8:40 p.m. by reading the public notice.

Kenneth Raskin, the owner, reported that he had been granted a Special Permit in January 18, 2007 allowing for an addition to his two-story 1928 Cape. The work was never done and the Special Permit (*15 Oakhurst Circle, ZBA Special Permit, January 18, 2007*) expired. He is now seeking a new Special Permit to do the same work.

Mr. Raskin is proposing to add a second story bedroom and bathroom over the section of the structure that is a one-story. A Special Permit (*15 Oakhurst Circle, ZBA Special Permit, May 29, 1984*) was granted in 1984 which allowed a back addition to be built 1.5 feet into the side setback. The proposed addition will be above this section of the house within the current limits of the existing structure.

Comments received:

- The Building Commissioner encouraged a storm water management plan for the project.
- The Planning Board did not hold a meeting to comment on the project.
- The Engineering Department found no objection to the project.
- Ali Akar, 23 Oakhurst Circle, supported the project.
- Paul and Rachel Grandstand, 15 Oakhurst Circle, had no objections to the project.

Mr. Goldman asked what the current non-conforming side set was. According to the Plan of Land prepared by Field Resources, April 2, 2020, the east side setback appeared to be 7.6 feet in the illustrative plan and 7.9 feet in the table.

Mr. Goldman moved to grant a Special Permit to allow the addition of a second story bedroom and bathroom within the legal non-conforming structure according to the plans submitted conditioned on the following:

- That the addition not encroach beyond the established side setback; and
- That a storm water management plan for the site be approved by the Town Engineer.

Mr. Tamkin seconded and the motion was unanimously approved.

The meeting adjourned at 8:52 p.m.

### **Findings:**

On the basis of the evidence presented at the hearing, the Board makes the following findings:


1. The premises is located in the Single Residence B District, and is improved with a single family dwelling. The lot is nonconforming, as it contains 7,000 square feet instead of the 10,000 square feet required by the District. The frontage is nonconforming in that it measures 75 feet instead of the 80 feet required.
2. The lot is irregularly shaped in that the easterly and westerly side lines are not parallel to each other.

3. The Board authorized construction of an addition to the easterly side of the dwelling under a Special Permit pursuant to a decision issued on May 29, 1984, which permitted a 1.5-foot encroachment into the easterly side line setback. At that time the Zoning By-law contained a provision that allowed the Board to authorize an encroachment into the side setback, but the Board has no such authority under the current Zoning By-law. However, the 1984 decision did not limit the construction within the setback to any specific structure or plans.
4. The Applicant's proposed project was the subject of a Special Permit issued by the Board to this same Applicant on January 18, 2007 under which the Board authorized construction of an addition to the second floor, comprising approximately 10.5 feet by 36.5 feet, located within the existing footprint of the residence, which did not further encroach into the easterly side setback and the proposed dormer likewise would not encroach into the front setback.
5. The Applicant testified that he never proceeded to construct the addition and as a result the 2007 Special Permit lapsed.
6. The Applicant now proposes to perform all of the same work as approved by the Board in 2007.
7. Construction of the second-floor addition, comprising approximately 10.5 feet by 36.5 feet, will be within the existing footprint of the current residence, will not further encroach into the easterly side setback and the new proposed dormer will not encroach into the front setback.
8. The proposed construction will not place the house in violation of any dimensional, parking or intensity regulation with which the building was therefore in conformity, and the proposed construction is not substantially more detrimental to the neighborhood than the existing non-conforming structure and will not derogate from the intent and purposes of the Zoning By-law.

**Decision:**

On the basis of the foregoing findings, following due and open deliberation, upon motion duly made and seconded, the Board by unanimous vote, grants the applicant a Special Permit to permit the construction of an addition of a second story bedroom and bathroom within a legal non-conforming structure located at 15 Oakhurst Circle, Needham, MA in the Single Residential B District in accordance with the plans filed with the application, provide that no portion of the addition, inclusive of the new proposed dormer, shall encroach beyond the established side setback; and that the applicant's storm water management plan for the site be approved by the Town Engineer.

**SIGNATORY PAGE – 15 OAKHURST CIRCLE**

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Jon D. Schneider, Chair

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Jonathan D. Tamkin, Member

**SIGNATORY PAGE – 15 OAKHURST CIRCLE**

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Howard S. Goldman, Member